

REMARKS

The Second Office Action Summary sheet contains a typographical error. In box 4, the claims pending in the application should have been designated as 1-4, 6-16, 18-25, and 27-35 instead of 1-28. Claims 5, 17, and 26 were cancelled in the Response to the First Office Action mailed December 7, 2004.

Claims 2-4, 6-12, 14-16, 18-22, 24-25, 27-28, 30-31, and 33-35 are objected to as being dependent on a rejected base claim, and are rejected under the judicially created doctrine of Non-statutory Double Patenting, but would be allowable if rewritten in independent form. No amendment is made because the claims are thought to be patentable over the prior art. Claims 1-4, 6-16, 18-25, and 27-35 remain for consideration and are thought to be allowable over the cited art.

The double patenting rejection of claims 1-4, 6-16, 18-25, 27, and 28-35 over claims 1-20 of co-pending Application No. 09/968,439 is respectfully traversed because the Second Office Action does not establish that all the limitations of all the claims in the present application are obvious in view of the claims of the co-pending application. However, a terminal disclaimer is submitted herewith for purposes of expediting prosecution.

The Second Office Action does not establish that Claims 1, 13, 23, 29 and 32 are rejected under 35 USC 103(a) as being unpatentable over "Kolchinsky" (US patent 5,535,406 to Kolchinsky) in view of "Aldebert" (US patent 5,794,033 to Aldebert et al.). The rejection is respectfully traversed, because the Office Action fails to show that all the limitations are suggested by the references, fails to provide a proper motivation for modifying the teachings of Kolchinsky with teachings of Aldebert, and fails to show that the combination could be made with a reasonable likelihood of success.

Among other limitations, Claim 1 includes limitations of the diagnostic signals being received from a network in response to a diagnostic request. It is respectfully submitted that neither Kolchinsky nor Aldebert is shown to teach or suggest these limitations.

Kolchinsky is alleged to teach fault detection and access control for reconfiguration, and Aldebert is alleged to teach programming PLDs remotely. However, no teaching of either Kolchinsky or Aldebert is shown to suggest the limitations of the diagnostic signals being received from a network in response to a diagnostic request. Nor does it appear that either of the references reasonably suggests such a feature. A citation to a specific teaching of either Kolchinsky or Aldebert is requested if the rejection is maintained. Otherwise, the rejection should be withdrawn.

The alleged motivation for combining Aldebert with Kolchinsky is not supported by evidence and is improper. The alleged motivation states that "it would have been obvious ... to couple the '*remote control means*' disclosed in the *Aldebert et al.* reference with the '*diagnostic means*' disclosed in the Kolchinsky reference because, being able to remotely change the configuration of a Programmable Logic Device and performing testing and diagnostics of the same device and artisan would be able to update and maintain a plurality of electronic devices from a single location and not have to travel to these locations when a device failure occurred." No supporting evidence is provided to suggest this conclusion. The alleged motivation simply states what could be accomplished with the capability of remotely configuring a device. Furthermore, in view of Kolchinsky's apparent local fault detection and recovery (col. 5, ll. 25-34), there is no apparent motivation for remote configuration. Without supporting evidence, the alleged motivation is simply a conclusion and improper.

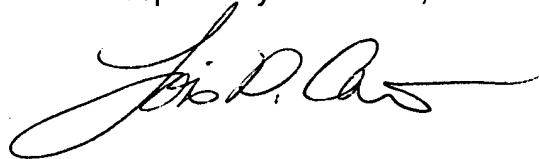
Claims 13, 23, 29, and 32 include similar limitations and are not shown to be unpatentable over the Kolchinsky-Aldebert combination for at least the reasons set forth above for claim 1.

The rejection of Claims 1, 13, 23, 29, and 32 over the Kolchinsky-Aldebert combination should be withdrawn, because the Second Office Action fails to show all the limitations are suggested by the combination, fails to provide a proper motivation for combining the references, and fails to show that the combination could be made with a reasonable likelihood of success.

Conclusion

In light of the above remarks, Applicant respectfully requests reconsideration and allowance of claims 1-4, 6-16, 18-25, and 27-35. If any action other than allowance is contemplated by the Examiner, the Examiner is respectfully requested to telephone Applicant's agent, Lois D. Cartier, at 720-652-3733.

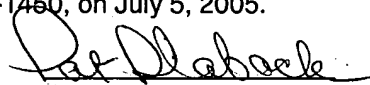
Respectfully submitted,



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I hereby certify that this correspondence is being deposited with the United States Postal Service as first-class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on July 5, 2005.

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Name


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